

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 377

Introduced by Assembly Member Maze

February 11, 2005

An act to ~~amend Section 6357.1 of~~ *add Section 60601.5* to the Revenue and Taxation Code, relating to tax.

LEGISLATIVE COUNSEL'S DIGEST

AB 377, as amended, Maze. Sales and use tax: exemption: examination.

Under existing law, there is exempted from sale and use taxes, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, diesel fuel used in farming activities and food processing.

This bill would require the ~~State Board of Equalization, in consultation with the Department of the California Highway Patrol, to undertake necessary measures that provide for the testing of the fuel in motor vehicles operating on the streets and highways that are suspected of using the described tax-exempt diesel fuel to test the fuel of diesel-powered highway vehicles for tax-exempt diesel fuel, and report its findings, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 60601.5 is added to the Revenue and*
- 2 *Taxation Code, to read:*

1 60601.5. (a) *The California Highway Patrol shall conduct*
2 *inspections of diesel fuel contained in the fuel tanks of*
3 *diesel-powered highway vehicles for the purpose of determining*
4 *the presence of dyed diesel fuel.*

5 (b) *Whenever it appears dyed diesel fuel is present in the fuel*
6 *tanks of a diesel-powered highway vehicle, the California*
7 *Highway Patrol shall notify the board of its findings.*

8 ~~SECTION 1. Section 6357.1 of the Revenue and Taxation~~
9 ~~Code is amended to read:~~

10 ~~6357.1. (a) There are exempted from the taxes imposed by~~
11 ~~this part, the gross receipts from the sale in this state of, and the~~
12 ~~storage, use, or other consumption in this state of, diesel fuel~~
13 ~~used in farming activities and food processing.~~

14 ~~(b) The board, in consultation with the Department of the~~
15 ~~California Highway Patrol, shall undertake necessary measures~~
16 ~~that provide for the testing of the fuel in motor vehicles operating~~
17 ~~on the streets and highways that are suspected of using diesel fuel~~
18 ~~exempted from taxes under subdivision (a).~~

19 ~~(c) For purposes of this section, “farming activities” has the~~
20 ~~same meaning as “farming business” as set forth in Section 263A~~
21 ~~of the Internal Revenue Code. “Farming activities” also includes~~
22 ~~the transportation and delivery of farm products to the~~
23 ~~marketplace.~~

24 ~~(d) The exemption established by subdivision (a) does not~~
25 ~~apply with respect to either of the following:~~

26 ~~(1) A tax imposed under the Bradley-Burns Uniform Local~~
27 ~~Sales and Use Tax Law (Part 1.5 (commencing with Section~~
28 ~~7200)) or in accordance with the Transactions and Use Tax Law~~
29 ~~(Part 1.6 (commencing with Section 7251)).~~

30 ~~(2) A tax imposed under Section 6051.2 or 6201.2, or under~~
31 ~~Section 35 of Article XIII of the California Constitution.~~